

C/CAG

CITY/COUNTY ASSOCIATION OF GOVERNMENTS OF SAN MATEO COUNTY

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Millbrae • Pacifica • Portola Valley • Redwood City • San Bruno • San Carlos • San Mateo • San Mateo County • South San Francisco • Woodside

AGENDA

The next meeting of the Legislative Committee
will be as follows.

PLEASE NOTE THAT WE WILL BE MEETING AT 6:00 P.M.

in the 2nd Floor Auditorium !!

Date: Thursday, February 14, 2008 – 6:00 p.m. to
7:00 p.m. Dinner will be served.
Place: San Mateo County Transit District Office¹
1250 San Carlos Avenue
2nd Floor Auditorium
San Carlos, California

PLEASE CALL DIANA SHU (599-1414) IF YOU ARE UNABLE TO ATTEND.

- | | | | | |
|----|--|---|----------------------|-------------------------|
| 1. | Public comment on items not on the agenda. | Presentations are limited to 3 minutes. | | 6:00 p.m.
5 minutes. |
| 2. | Approval of minutes from December 13, 2008. | Action (Shu) | Pages S2 | 6:05 p.m.
5 minutes |
| 3. | Presentation from C/CAG's Lobbyist in Sacramento

A position may be taken on any legislation, including legislation not previously identified. | Potential Action (Chuck Cole) | No attachments | 6:10 p.m.
20 minutes |
| 4. | Legislative Priorities – Update on the Reauthorization of AB 1546 | Information (Shu) | Pages S4 attachments | 6:30 p.m.
10 minutes |

¹From Route 101 take the Holly Street (west) exit. Two blocks past El Camino Real go left on Walnut. The entrance to the parking lot is at the end of the block on the left, immediately before the ramp that goes under the building. Enter the parking lot by driving between the buildings and making a left into the elevated lot. Follow the signs up to the levels for public parking.

For public transit access use SamTrans Bus lines 390, 391, 292, KX, PX, RX, or take CalTrain to the San Carlos Station and walk two blocks up San Carlos Avenue.

- | | | | | |
|----|--|---------------------------|----------------------|------------------------|
| 5. | Proposition 99 and Proposition 98 on the June 2008 Ballot – Eminent Domain Initiatives | Information (Shu) | Pages S5 attachments | 6:40 p.m.
5 minutes |
| 6. | Report Back on County of San Mateo sponsored Legislative Session – Alternatives to State Budget Cuts | Information (Shu) | No attachments | 6:45 p.m.
5 minutes |
| 7. | Establish date and time for next meeting. | Action (Gordon) | | 6:50 p.m.
5 minutes |
| 8. | Other Items/Comments from Guests. | Potential Action (Gordon) | | 6:55 p.m.
5 minutes |
| 9. | Adjournment. | Action (Gordon) | | 7:00 p.m. |

NOTE: All items appearing on the agenda are subject to action by the Committee. Actions recommended by staff are subject to change by the Committee.

**CITY/COUNTY ASSOCIATION OF GOVERNMENTS
LEGISLATIVE COMMITTEE**

**MINUTES
MEETING December 13, 2007**

At 6:10 P.M. Chairwoman Deborah Gordon called the meeting to order in the Second Floor Auditorium at the San Mateo Transit District Office.

Committee Members Attending:

Deborah Gordon, Chair (C/CAG Member - Town of Woodside)
Irene O'Connell, Vice Chair (C/CAG Member - City of San Bruno)
Linda Koelling (C/CAG Member - Foster City)
Rosalie O'Mahony (C/CAG Member - City of Burlingame)

Guests or Staff Attending:

Sepi Richardson (C/CAG Member - City of Brisbane)
Richard Napier (C/CAG Executive Director)
Brian Moura (Assistant City Manager -San Carlos)
Chuck Cole (Advocation)
Diana Shu, (C/CAG Staff)

1. Public comment on items not on the agenda.

None.

2. Approval of minutes from October 14, 2007.

Quorum: minimum 5 voting members present (There were only 4 members present but committee members agreed to move on the action items and let Staff take it to the C/CAG board for final resolution.)

Motion: Approve minutes as shown

Linda Koelling, first

Irene O'Connell, second

Motion passed 3 Ayes-0 Nays- 1 abstain

3. Review and Approval of State Legislative Priorities

- a. Staff provided a list of legislative priorities based on the 2007 legislative priority listing. Chair recommended that the priorities be modified slightly in response to a state budget deficit of \$14 Billion. The new list is as follows:

Priority #1 - Protect against the diversion of local revenues including the protection of redevelopment funds and programs.

Priority #2 - Protect against increased local costs resulting from State action without 100% State reimbursement for the added costs.

Priority #3 - *Secure stable funding to pay for increased NPDES mandates.*

Priority #4 – *Support lowering the 2/3rd super majority vote for local special purpose taxes*

Priority #5 – *Encourage the State to protect transportation funding*

Priority #6 – *Advocate for revenue solutions to address State budget issues that are also beneficial to Cities/ Counties*

Motion: Approve Legislative Priorities as listed above

Irene O'Connell, first

Linda Koelling, second

Motion passed 4 Ayes-0 Nays- 0 abstain

3.1 Recommendation to Oppose Proposition 91 on the February 5, 2008 Ballot

- a. Staff recommends that the Legislative Committee oppose Proposition 91 which is a bill very similar to Proposition 1A which was passed by the voters in 2006. Proponents of the bill recognized that another bill to protect transportation funding is not required and are now urging voters to vote against Proposition 91.

Motion: Recommendation for C/CAG Board to Oppose Prop 91

Irene O'Connell, first

Linda Koelling, second

Motion passed 4 Ayes-0 Nays- 0 abstain

4. Presentation from C/CAG's Lobbyist in Sacramento – Chuck Cole

- 2008 – second year of a two- year session with a number of 2-year bills that are active.
- Eminent Domain issues sponsored by the Jarvis folks and the League is carrying its own bill similar to ACA 8.
- AB 32 <http://www.arb.ca.gov/cc/docs/ab32text.pdf>
To implement the reduction of greenhouse gases will pose lots of challenges for the state, and local jurisdictions.
- Housing SB 375 will be a big item and the Latino Housing Forum are already not in favor because of affordability issues.
- Kehoe SB 303 also impacts affordable housing issues
- Water quality bonds – selling bonds would create additional debt therefore state holding off on selling bonds wherever necessary
- State Budget Deficit caused by mortgage issues expected to be \$2B in FY 2007-08 and increasing to \$14 B by end of FY 2008-09

- Wildfires and Writers strike are having a major impact on the California finance. Working on internet commerce and rights issues.
- Curbside recycling goals 50% going to 75%
- Health Care – lottery funds, tobacco tax, and student loans, etc still unable to meet gaps
- Water storage – above ground versus below ground issues.
- Budget Options – While the governor has the option to use Prop 1A funds, his staff has urged him to leave it alone because of the payback clause. But the funds have to come from somewhere so it is expected that schools, local government, health and human services will also be impacted.
- In general, Democrats want to raise taxes while Republicans wants to cut programs.
- Prop 58 gives the governor the ability to declare a fiscal emergency. The legislature then has 45 days to modify or adopt Governor's budget proposal.
- Overall feeling in Sacramento is that we need to cut programs and raise revenues in order to bridge the gap.
- Governor did not want to saddle next administration with this program. SB 613 veto message was to keep program to 4 years.
- Wes Luhan – did a great job and has moved onto a new job as Public Affairs Director at Union Pacific for California and Nevada.
- Initiatives – tribal gaming compact issues will be on the February ballot.
- Elections will be held during February, June and November so 2008 should be an interesting political year.
- Public employee subsidy – initiatives may surface again in 2008
- Water storage – reservoir bills raising height and strengthening issues. There are considerations about bringing projects together in order to keep costs of projects down. Water shortage is still a major issue in California.

5. Approval of Resolution 07-52 Authorizing the C/CAG Chair to Execute an Agreement of State Legislative Advocacy Professional Services for a Maximum Amount of \$76,000 per year.

- a. Upon receiving news that the primary associate working with C/CAG, Wes Luhan, had resigned his post to work for Union Pacific Railroad as the Director of Public Affairs in California and Nevada, the Chair of the Legislative Committee

convened a subcommittee to interview Chuck Cole, Principal of Advocation, Inc. the only proposal received by C/CAG in response to the RFP. Chuck Cole assured C/CAG Legislative Committee members that he would personally shepherd the reauthorization of AB 1546 and that he would bring on a new associate as well as consider merging his firm with another to bring the expertise C/CAG needs on the legislative front.

Motion: Approve Recommendation for C/CAG Board to Execute an Agreement with Advocation Inc. for Professional Services

Rosalie O'Mahoney, first

Linda Koelling, second

Motion passed 4 Ayes – 0 Nays – 0 Abstain

6. Establish date and time for next meeting.

- a. January 10, 2007 at 6:00 PM Second Floor Auditorium at the San Mateo Transit District Office unless otherwise announced.

7. Other Items/Comments from Guests

- David Burruto – Yee's staff worked with Advocatio's Staff on SB 613 to help leverage support for the bill. It is hoped that the 2008 budget deficit may increase opportunities for local self-help type bills.
- Jerry Grace – had questions about housing and rental issues

8. Adjournment

- a. The meeting was adjourned at approximately 6:45 P.M

C/CAG AGENDA REPORT

Date: February 14, 2008
To: C/CAG Legislative Committee
From: Richard Napier, C/CAG Executive Director
Subject: **Legislative Priorities – Update on the Reauthorization of AB 1546**
(For further information contact Diana Shu at 599-1414)

RECOMMENDATION

Information only.

FISCAL IMPACT

Potentially \$3 Million per year for an additional 4 years.

SOURCE OF FUNDS

Vehicle License Fee

BACKGROUND/DISCUSSION

In 2004, AB 1546 was chaptered as California Government Code Section 65089.11 thru 65089.15 for a pilot project in San Mateo County. This allowed the City/ County Association of Governments of San Mateo County (C/CAG) to collect up to a four-dollar motor vehicle fee to fund programs that would address the impact of motor vehicles on transportation and the environment. The programs have a direct nexus between the fee and the motorists that pay the fee. It funds only programs that address the negative impact of motor vehicles on congestion and the environment. The Code specifically requires this direct nexus. The San Mateo County Programs meet the nexus requirement.

In 2007, C/CAG sponsored another bill SB 613 in order to extend the sunset date of the pilot project from January 1, 2009 to January 1 2019. This bill was vetoed by the Governor. In the veto message, the Governor stated that he wanted a 4 year bill and that he wanted the legislature to verify that this pilot program was successful.

In January 2008, C/CAG submitted a three year report to the State Legislature that provides an in depth analysis of the pilot project along with a financial audit and executive summary. The executive summary is attached for information to this report.

Meanwhile, Senator Simitian is looking for a vehicle to resubmit SB 613 as a 4-year bill. However, the new bill number is still unknown. Staff has requested that cities prepare a letter of support for the new bill. As soon, as a bill number has been authorized, staff will notify the cities to forward their letters of support.

ATTACHMENTS

- AB1546 – Life to Date Payments to Cities By Jurisdiction
- AB 1546 Executive Summary

**AB1546 – Life to Date Payments to Cities
By Jurisdiction**

Jurisdiction	% Share	Total Funds Allocated to Cities		Total Funds Reimbursed to Cities	
ATHERTON	1.0%	\$	24,962	\$	24,962
BELMONT	3.5%	\$	87,367	\$	87,367
BRISBANE	0.5%	\$	12,481	\$	12,481
BURLINGAME	3.9%	\$	97,351	\$	97,351
COLMA	0.2%	\$	4,992	\$	4,992
DALY CITY	14.5%	\$	361,948	\$	361,948
EAST PALO ALTO	4.5%	\$	112,329	\$	77,408
FOSTER CITY	4.1%	\$	102,344	\$	102,344
HALF MOON BAY	1.8%	\$	44,931	\$	44,931
HILLSBOROUGH	1.5%	\$	37,443	\$	37,443
MENLO PARK	4.2%	\$	104,840	\$	104,840
MILLBRAE	2.9%	\$	72,390	\$	72,390
PACIFICA	5.4%	\$	134,794	\$	134,874
PORTOLA VALLEY	0.6%	\$	14,977	\$	14,615
REDWOOD CITY	10.5%	\$	262,100	\$	246,086
SAN BRUNO	5.8%	\$	144,779	\$	144,779
SAN CARLOS	3.9%	\$	97,351	\$	97,351
SAN MATEO	13.0%	\$	324,505	\$	324,505
SOUTH SAN FRANCISCO	8.5%	\$	212,176	\$	212,176
WOODSIDE	0.8%	\$	19,970	\$	9,623
COUNTY OF SAN MATEO	8.9%	\$	222,161	\$	222,161
TOTALS		\$	2,496,191	\$	2,434,628

SAN MATEO COUNTY DEDICATED MOTOR VEHICLE FEE PILOT PROJECT Executive ANALYSIS

Introduction

In 2004, AB 1546 was chaptered as California Government Code Section 65089.11 thru 65089.15 for a pilot project in San Mateo County. This allowed the City/ County Association of Governments of San Mateo County (C/CAG) to collect up to a four-dollar motor vehicle fee to fund programs that would address the impact of motor vehicles on transportation and the environment. The programs have a direct nexus between the fee and the motorists that pay the fee. It funds only programs that address the negative impact of motor vehicles on congestion and the environment. The Code specifically requires this direct nexus. The San Mateo County Programs meet the nexus requirement.

The pilot project has provided funding to the 20 cities and the County in San Mateo County to successfully implement a variety of local and regional programs to address traffic congestion and storm-water pollution issues. It has provided funding to meet unfunded mandates such as requirements to meet the Federal Clean Water Act. There are currently minimal funding sources to address the Clean Water Act and insufficient funding to address the traffic congestion problems.

The San Mateo County pilot project will sunset on 1/01/09 unless the term is extended. This analysis describes the accomplishments for the three years and the project's compliance with the California Government Code. This analysis shows that the pilot project has been successful and is a financial tool for the cities and County to address an unfunded mandate such as the Federal Clean Water Act. Therefore, the accomplishments of the past three years justify continuation of this pilot project as requested in SB 348 so that it can continue for another four years to 1/1/2013.

Detailed Pilot Project Description

The enclosed report describes the major programs of this pilot project all of which have a direct nexus to motor vehicles. The two primary categories are Traffic Congestion and Storm-water Pollution Prevention with each divided into Local and Countywide projects.

Traffic Congestion - Projects to improve the movement of traffic and/or to increase capacity on the roadway.

- Local shuttles/transportation including use of alternative fuels
- Road resurfacing/reconstruction
- Roadway operations such as re-striping, signal timing, coordination, signage, and replacement and/or upgrading of traffic signal hardware and/or software
- Deployment of Intelligent Transportation System projects having Local and Regional (Countywide) significance

Storm-water Pollution Prevention - Projects to minimize debris and pollutants in the storm-water system caused from the operations of motor vehicles. Projects must clearly bear a relationship or benefit to the motor vehicles that will pay the fee. They must address the negative impact on creeks, streams, bays, and the ocean caused by motor vehicles and the infrastructure supporting motor vehicle travel.

- Street sweeping and storm inlet cleaning
- Street side runoff treatment
- Auto repair shop inspections
- Managing runoff from street/parking lot surfaces

Each of the major programs is equally funded with revenues from the pilot project.

Accomplishments

The pilot project has implemented several major programs including the following:

Traffic Congestion Program - Roadway improvements, Intelligent Transportation System (ITS) and incident management projects implemented or underway.

Storm-water Pollution Prevention Program - Roads swept, storm drains cleaned, rock swales installed and creation of a Sustainable, Green Streets and Parking Lots Program.

Alternative Fuel Program (Included in Traffic Congestion) - The hydrogen shuttle service deployed and has traveled over 1000 miles and transported over 800 passengers.

See the attached San Mateo County Pilot Program Accomplishments for detailed information and performance measures. It is noted that the quantities indicates totals for the program. The Pilot Project funded a portion of the total programs.

Benefits

The key benefit of the pilot project was to fund local and County jurisdictions to find innovative solutions to address the negative impact of motor vehicles on congestion and the environment. Other specific benefits include:

- **Local and Regional Benefit** - Provided funds to develop programs of both local and regional benefit to the county.
- **Unfunded Mandates** - Provides funds to meet unfunded mandates such as requirements to meet the Federal Clean Water Act.
- **Traffic Congestion** - Provided incentives to local jurisdictions to work together on regional signal timing projects that could not be done individually.
- **Storm-water Pollution** - Provided incentives to local jurisdictions to implement innovative programs such as the Sustainable, Green Streets and Parking Lots demonstration projects that will enhance the visual aspects of public streets as well as control storm-water, traffic, and reduce water pollution.
- **Alternative Fuel** - Provides startup funds to explore the benefits of alternative fuels and its impact on clean air and water.

SAN MATEO COUNTY PILOT PROJECT ACCOMPLISHMENTS

Traffic Congestion Program

- Performance measures includes the following accomplishments:
 - **130** miles of streets/roads resurface/reconstructed
 - **157** traffic signal retimed/replaced/upgraded
 - **17** miles of streets/roads re-striped
 - **111** miles of street signage improved
- Intelligent Transportation System (ITS)
 - **\$1,244,000** was distributed to 11 jurisdictions for a total of **78 projects** (62 signal controllers; 16 traffic video detection systems) to **improve inter-jurisdictional traffic management**. The projects were selected through a competitive process.
- Traffic Incident Management
 - Development of the draft **Incident Management - Alternative Route Plan** and **Infrastructure Improvement Plan** for deployment strategies for **Intelligent Transportation System (ITS)** elements are underway. Infrastructure improvements identified in the Plan has advanced into a **San Mateo County Smart Corridors** to deploy ITS equipment along designated local streets and state routes to manage traffic congestion and improve mobility.

Storm-water Pollution Prevention Program

- Performance measures includes the following accomplishments:
 - **110,175** miles of streets/roads swept
 - **16,787** storm-drain inlets and catch basins inspected and cleaned
 - **600** feet of rock swales installed to check erosion
- Sustainable, Green Streets and Parking Lots Program
 - Development of Sustainable, Green Streets and Parking Lots **Technical Design Guidebook** provides strategies for incorporating innovative storm-water treatment measures in streets and parking lot projects is ongoing.
 - “Call for Projects” to fund up to four small-scaled demonstration projects with a total program cost of approximately \$1,193,595. The projects will construct **green streets** and related roadside storm-water pollution prevention improvements. It is anticipated that the projects will begin in April 2008.
 - Funded up to \$250,000 for construction of **storm-water management measures** improvements at the Fitzgerald Marine Reserves.

Alternative Fuel Program (Included in Traffic Congestion)

- Leveraged funds to get a Hydrogen Shuttle awarded from SB 76.
- The **hydrogen shuttle service was deployed** on December 3, 2007 and is on a full morning schedule of four (4) round trips per day carrying over 7 passengers per trip. The shuttle has traveled over 1000 miles and transported over 800 passengers during first four weeks of operation.

Financial Overview for 1/1/05 thru 1/1/08

Description	Amount
Revenues	
Fees Collected	\$6,145,489
Expenditures	
DMV and C/CAG Admin costs	\$210,757
Programs	
Disbursements to date	\$2,434,628
Programmed	\$3,261,095
Total Expenditures	\$5,906,480
Un-programmed	\$239,009
TOTAL	\$6,145,489

Approximately 96 percent of the funds have been committed. Annual reports have been submitted each year since 2006, even though the law required only one report. In addition, an independent financial audit has also been completed for fiscal years 2005-06 and 2006-07. Results of the audits have shown that all funds have been properly accounted for with no findings.

Administration of the Project

In 2004, elected representatives from the twenty cities and the County of San Mateo voted unanimously to approve a resolution to adopt a fee and program as required by the California Government Code.

This project has met all California Government Code requirements including:

- A resolution for the fee and adoption of program and budget.
- Notification of a public meeting regarding the resolution. No public opposition.
- Approval of the resolution by a unanimous vote representing over 2/3 of the population.
- The filing of an annual report.
- An independent financial audit.

Please see the attached C/CAG Conformance to California Government Code for detailed information. The performance reports indicate that local and County jurisdictions are using the funds to remove debris from thousands of miles of roadways and hundreds of inlets and to improve miles of roadways, and scores of traffic signals. This results in significant congestion and environmental benefits. Many of these programs will not be able to continue unless the pilot project's term is extended beyond January 1, 2009.

For this reason, in 2007, elected representatives from these same jurisdictions supported SB 613 to extend the term of California Government Code 65089.11 thru 65089.15 another ten years to 1/1/2019. The justification was because it funds projects that benefit

**C/CAG Conformance to California Government Code Sections 65089.11 thru 65089.15 –
San Mateo County \$4 Motor Vehicle Fee**

<u>Code Requirements</u>	Method of Compliance
Resolution for Fee	Newspaper Notice of Public Hearing held on December 9, 2005 Resolutions 04-37 and 04-38
Resolution for Program	December 9, 2005 Resolutions 04-37 and 04-38
Approval of Board representing 2/3 majority voters	17 Ayes representing population of 621,186 0 Nays 4 Absent representing population of 85,975
Start imposing fee no earlier than July 1, 2005	DMV issued renewal increases for vehicles registered after July 1, 2005
Termination on January 1, 2009 unless reauthorized by the Legislature.	Pending
Board finding of fact by 2/3 majority vote to approve imposing fees	By Resolution 05-08 on March 10, 2005
Congestion Management Program	By Resolution 05-08 on March 10, 2005
Storm-water Pollution Prevention Program	By Resolution 05-08 on March 10, 2005
5 percent of the fees for Admin	Actual fees = 3.4% (\$210,757 including DMV fees/\$6,145,489)
Specific program with budget and performance measures to be adopted at public hearing	By Resolution 05-08 on March 10, 2005
Review of independent audit performed at noticed public hearing	Board meeting scheduled for February 14, 2008 Annual Audits by Maze Associates for FY 2005-2006 completed September 2006 *FY 2006-2007 completed November 2007 * Exceeds requirements
Review of Report to Legislature by July 1, 2006 performed at noticed public hearing	Board meeting scheduled for February 14, 2008 Reports to Legislature sent on June 29, 2006, *June 29, 2007 *January 23, 2008 * Exceeds requirements

people that live, work and operate motor vehicles in San Mateo County. SB 613 passed the legislature and was sent to the Governor. However, the Governor chose to veto SB 613. In his veto message, the Governor stated that he would consider reauthorization of a four-year bill if the legislature deemed the first three years of the pilot project successful. Therefore, the purpose of this report is to explain, in detail, those accomplishments for the first three years of the program, the merit of extending the term by four years to 1/1/2013, and to address the requests in the Governor's veto message.

Next Steps

Submit the three-year report and Executive Analysis:

- Legislature
- Governor's Office

Meet all the requirements established in the Governor's SB 613 veto message:

- Report and evaluate the program after three years.
- Extension of California Government Code 65089.11 thru 65089.15 for four years.

Amend SB 348 to replace the current language with the revised language of SB 613 to extend the term four years to 1/1/2013:

- Meet the requirements of the Governor's veto message.
- Submit SB 348 to the Legislature and the Governor for approval.

Justification for approval of SB 348

- Meets all the requirements of the Governor's veto message of SB 613.
- Proven success for the past three years.
- Many of these Traffic Congestion and Storm-water Pollution Prevention programs will not have funding to continue unless the pilot project's term is extended beyond January 1, 2009.
- Provides limited funding for the unfunded federal and state mandates for storm-water pollution programs.
- Provides a tool for local governments to address the impact of motor vehicles.

Summary of Legislative History

<u>Year</u>	<u>Description</u>
2004	AB 1546 Chaptered - CGC 65089.11 thru 65089.15
1/1/2009	Termination date unless extended.
2007	SB 613 - Requested a 10-year extension that was vetoed by the Governor in preference for a shorter extension
2008	SB 348 - Bill with a four-year extension as requested by the Governor.

Contact: Richard Napier - Executive Director, C/CAG 1-650-599-1420

C/CAG AGENDA REPORT

Date: February 14, 2008
To: C/CAG Legislative Committee
From: Richard Napier, C/CAG Executive Director
Subject: **Proposition 99 and Proposition 98 on the June 2008 Ballot – Eminent Domain Initiatives**

(For further information contact Diana Shu at 599-1414)

RECOMMENDATION

For Information Only

Proposition 99 and Proposition 98 on the June 2008 Ballot regarding Eminent Domain issues.

FISCAL IMPACT

None.

SOURCE OF FUNDS

Not applicable.

BACKGROUND/DISCUSSION

From the League of California Cities:

Proposition 99, “the **Homeowners Protection Act** would provide solid protections for homeowners by prohibiting governments from taking an owner-occupied home to transfer to a private party. The measure is a direct response to the U.S. Supreme Court's infamous *Kelo v. City of New London* decision of 2005.

The broad coalition supporting the **Homeowners Protection Act** includes seniors, homeowners, business, labor, environmentalists, affordable housing advocates, public safety leaders and local government.”

Proposition 98, “the so-called California Property Owners and Farmland Protection Act,...an anti-rent control measure would also eviscerate local land use planning, gut environmental protections and undermine public water projects needed to ensure the state an adequate supply of clean drinking water. The deeply flawed measure, also known as the "Hidden Agendas Scheme," is being funded by wealthy apartment owners and mobile home park owners.”

For more information on both initiatives and the campaign, visit
<http://eminentdomainreform.com/>.

The League of California Cities and the California State Association of Governments support Proposition 99 and oppose Proposition 98.

ACTION

None For Information Only

ATTACHMENTS

- Proposition 98 and 99 voter information and full text.

Propositions that are on the
June 3, 2008 Statewide Direct Primary Election Ballot

Initiative Constitutional Amendment

Proposition 98

1248. Government Acquisition, Regulation of Private Property. Constitutional Amendment.

Proponents: Doug Mosebar, Jon Coupal and Jim Nielsen (916) 444-9950

Bars state and local governments from condemning or damaging private property for private uses. Prohibits rent control and similar measures. Prohibits deference to government in property rights cases. Defines "just compensation." Requires an award of attorneys fees and costs if a property owner obtains a judgment for more than the amount offered by the government. Requires government to offer to original owner of condemned property the right to repurchase property at condemned price when property is put to substantially different use than was publicly stated. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: Increased costs to many governments due to the measure's restrictions. The fiscal effect on most governments probably would not be significant. (Initiative 07-0015.) ([Full Text](#))

HOWARD JARVIS
TAXPAYERS
ASSOCIATION



HOWARD JARVIS, Founder (1903-1986)
ESTELLE JARVIS, Honorary Chairwoman
JON COUPAL, President
TREVOR GRIMM, General Counsel
TIMOTHY BITTLE, Director of Legal Affairs

May 1, 2007

Ms. Patricia Galvan, Initiative Coordinator
Attorney General's Office
1515 K Street, 6th Floor
Sacramento, CA 95814

RECEIVED
MAY - 3 2007

Re: California Property Owners and Farmland Protection Act

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Dear Ms. Galvan:

By this letter, we respectfully request the Attorney General to prepare a title and summary of the chief purpose and points of the California Property Owners and Farmland Protection Act, a copy of which is attached. The undersigned are the proponents of this measure. **We also hereby withdraw Initiative No. 07-0003.** Although our previous initiative and the attached proposal both deal with eminent domain and property rights, there are substantial differences between the two.

Any correspondence regarding this initiative should be directed to Howard Jarvis Taxpayers Association, 921 Eleventh Street, Suite 1201, Sacramento, CA 95814 (916) 444-9950. The proponents' resident addresses are attached to this letter.

Enclosed is the required \$200 filing fee as well as the certification as required by Elections Code Section 18650.

Thank you for your cooperation.

Sincerely,

Doug Mosebar
President, California Farm
Bureau Federation

Sincerely,

Jon Coupal
President Howard
Jarvis Taxpayers
Association

Sincerely,

Jim Nielsen
Chairman, Cal.
Alliance to Protect
Private Property
Rights

SECTION 1. STATEMENT OF FINDINGS

(a) Our state Constitution, while granting government the power of eminent domain, also provides that the people have an inalienable right to own, possess, and protect private property. It further provides that no person may be deprived of property without due process of law, and that private property may not be taken or damaged by eminent domain except for public use and only after just compensation has been paid to the property owner.

(b) Notwithstanding these clear constitutional guarantees, the courts have not protected the people's rights from being violated by state and local governments through the exercise of their power of eminent domain.

(c) For example, the U.S. Supreme Court, in *Kelo v. City of New London*, held that the government may use eminent domain to take property from its owner for the purpose of transferring it to a private developer. In other cases, the courts have allowed the government to set the price an owner can charge to sell or rent his or her property, and have allowed the government to take property for the purpose of seizing the income or business assets of the property.

(d) Farmland is especially vulnerable to these types of eminent domain abuses.

SECTION 2. STATEMENT OF PURPOSE

(a) State and local governments may use eminent domain to take private property only for public uses, such as roads, parks, and public facilities.

(b) State and local governments may not use their power to take or damage property for the benefit of any private person or entity.

(c) State and local governments may not take private property by eminent domain to put it to the same use as that made by the private owner.

(d) When state or local governments use eminent domain to take or damage private property for public uses, the owner shall receive just compensation for what has been taken or damaged.

(e) Therefore, the people of the state of California hereby enact the "California Property Owners and Farmland Protection Act."

SECTION 3. AMENDMENT TO CALIFORNIA CONSTITUTION

Section 19 of Article I of the California Constitution is amended to read:

SEC. 19(a) Private property may be taken or damaged only for a stated public use and when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner. The Legislature may provide for possession by the condemnor following commencement of eminent domain proceedings upon deposit in court and prompt release to the owner of money determined by the court to be the probable amount of just compensation. Private property may not be taken or damaged for private use.

(b) For purposes of this section:

(1) "Taken" includes transferring the ownership, occupancy, or use of property from a private owner to a public agency or to any person or entity other than a public agency, or limiting the price a private owner may charge another person to purchase, occupy or use his or her real property.

(2) "Public use" means use and ownership by a public agency or a regulated public utility for the public use stated at the time of the taking, including public facilities, public transportation, and public utilities, except that nothing herein prohibits leasing limited space for private uses incidental to the stated public use; nor is the exercise of eminent domain prohibited to restore utilities or access to a public road for any private property which is cut off from utilities or access to a public road as a result of a taking for public use as otherwise defined herein.

(3) "Private use" means:

(i) transfer of ownership, occupancy or use of private property or associated property rights to any person or entity other than a public agency or a regulated public utility;

(ii) transfer of ownership, occupancy or use of private property or associated property rights to a public agency for the consumption of natural resources or for the same or a substantially similar use as that made by the private owner; or

(iii) regulation of the ownership, occupancy or use of privately owned real property or associated property rights in order to transfer an economic benefit to one or more private persons at the expense of the property owner.

(4) "Public agency" means the state, special district, county, city, city and county, including a charter city or county, and any other local or regional governmental entity, municipal corporation, public agency-owned utility or utility district, or the electorate of any public agency.

(5) "Just compensation" means:

(i) for property or associated property rights taken, its fair market value;

(ii) for property or associated property rights damaged, the value fixed by a jury, or by the court if a jury is waived;

(iii) an award of reasonable costs and attorney fees from the public agency if the property owner obtains a judgment for more than the amount offered by a public agency as defined herein; and

(iv) any additional actual and necessary amounts to compensate the property owner for temporary business losses, relocation expenses, business reestablishment costs, other actual and reasonable expenses incurred and other expenses deemed compensable by the Legislature.

(6) "Prompt release" means that the property owner can have immediate possession of the money deposited by the condemnor without prejudicing his or her right to challenge the determination of fair market value or his or her right to challenge the taking as being for a private use.

(7) "Owner" includes a lessee whose property rights are taken or damaged.

(8) "Regulated public utility" means any public utility as described in Article XII, section 3 that is regulated by the California Public Utilities Commission and is not owned or operated by a public agency. Regulated public utilities are private property owners for purposes of this article.

(c) In any action by a property owner challenging a taking or damaging of his or her property, the court shall consider all relevant evidence and exercise its independent judgment, not limited to the administrative record and without deference to the findings of the public agency. The property owner shall be entitled to an award of reasonable costs and attorney fees from the public agency if the court finds that the agency's actions are not in compliance with this section. In addition to other legal and equitable remedies that may be available, an owner whose property is taken or damaged for private use may bring an action for an injunction, a writ of mandate, or a declaration invalidating the action of the public agency.

(d) Nothing in this section prohibits a public agency or regulated public utility from entering into an agreement with a private property owner for the voluntary sale of property not subject to eminent domain, or a stipulation regarding the payment of just compensation.

(e) If property is acquired by a public agency through eminent domain, then before the agency may put the property to a use substantially different from the stated public use, or convey the property to another person or unaffiliated agency, the condemning agency must make a good faith effort to locate the private owner from whom the property was taken, and make a written offer to sell the property to him at the price which the agency paid for the property, increased only by the fair market value of any improvements, fixtures, or appurtenances added by the public agency, and reduced by the value attributable to any removal, destruction or waste of improvements, fixtures or appurtenances that had been acquired with the property. If property is repurchased by the former owner under this subdivision, it shall be taxed based on its pre-condemnation enrolled value, increased or decreased only as allowed herein, plus any inflationary adjustments authorized by subdivision (b) of Section 2 of Article XIII A. The right to repurchase shall apply only to the owner from which the property was taken, and does not apply to heirs or successors of the owner or, if the owner was not a natural person, to an entity which ceases to legally exist.

(f) Nothing in this section prohibits a public agency from exercising its power of eminent domain to abate public nuisances or criminal activity;

(g) Nothing in this section shall be construed to prohibit or impair voluntary agreements between a property owner and a public agency to develop or rehabilitate affordable housing.

(h) Nothing in this section prohibits the California Public Utilities Commission from regulating public utility rates.

(i) Nothing in this section shall restrict the powers of the Governor to take or damage private property in connection with his or her powers under a declared state of emergency.

SECTION 4. IMPLEMENTATION AND AMENDMENT

This section shall be self-executing. The Legislature may adopt laws to further the purposes of this section and aid in its implementation. No amendment to this section may be made except by a vote of the people pursuant to Article II or Article XVIII.

SECTION 5. SEVERABILITY

The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SECTION 6. EFFECTIVE DATE

The provisions of this Act shall become effective on the day following the election ("effective date"); except that any statute, charter provision, ordinance, or regulation by a public agency enacted prior to January 1, 2007, that limits the price a rental property owner may charge a tenant to occupy a residential rental unit ("unit") or mobile home space ("space") may remain in effect as to such unit or space after the effective date for so long as, but only so long as, at least one of the tenants of such unit or space as of the effective date ("qualified tenant") continues to live in such unit or space as his or her principal place of residence. At such time as a unit or space no longer is used by any qualified tenant as his or her principal place of residence because, as to such unit or space, he or she has: (a) voluntarily vacated; (b) assigned, sublet, sold or transferred his or her tenancy rights either voluntarily or by court order; (c) abandoned; (d) died; or he or she has (e) been evicted pursuant to paragraph (2), (3), (4) or (5) of Section 1161 of the Code of Civil Procedure or Section 798.56 of the Civil Code as in effect on January 1, 2007; then, and in such event, the provisions of this Act shall be effective immediately as to such unit or space.

Initiative Constitutional Amendment
Proposition 99

1251. Eminent Domain. Acquisition of Owner-Occupied Residence. Constitutional Amendment.

Proponents: Christopher K. McKenzie, Susan Smartt and Kenneth Willis c/o Steve Lucas (415) 389-6800

Bars state and local governments from using eminent domain to acquire an owner-occupied residence, as defined, for conveyance to a private person or business entity. Creates exceptions for public work or improvement, public health and safety protection, and crime prevention.

Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: The measure would likely not have a significant fiscal impact on state or local governments. (Initiative 07-0018.)

(Full Text)

May 10, 2007

RECEIVED

MAY 14 2007

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

VIA PERSONAL DELIVERY

The Honorable Edmund G. Brown, Jr.
Attorney General
1300 I Street
Sacramento, CA 95814

Attention: Patricia Galvan, Initiative Coordinator

Re: Request for Title and Summary- Initiative Constitutional Amendment

Dear Mr. Brown:

I am one of the proponents of the attached initiative constitutional amendment. Pursuant to Article II, Section 10(d) of the California Constitution and Section 9002 of the Elections Code, I hereby request that a title and summary be prepared. Enclosed is a check for \$200.00. My residence address is attached. I also withdraw Initiative No. 07-0006.

All inquiries or correspondence relative to this initiative should be directed to Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP, 1415 L Street, Suite 1200, Sacramento, CA 95814; Attention: Steve Lucas (telephone: 415/389-6800).

Thank you for your assistance.

Sincerely,

Christopher K. McKenzie, Proponent

Enclosure: Proposed Initiative

May 10, 2007

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MAY 14 2007

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ATTORNEY GENERAL'S OFFICE**

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Thank you for your assistance.

Sincerely,

Susan Smartt, Proponent

Enclosure: Proposed Initiative

May 10, 2007

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Thank you for your assistance.

Sincerely,

Kenneth Willis, Proponent

Enclosure: Proposed Initiative

TITLE: This measure shall be known as the "Homeowners and Private Property Protection Act."

SECTION 1: PURPOSE AND INTENT

By enacting this measure, the people of California hereby express their intent to:

- A. Protect their homes from eminent domain abuse.
- B. Prohibit government agencies from using eminent domain to take an owner-occupied home to transfer it to another private owner or developer.
- C. Amend the California Constitution to respond specifically to the facts and the decision of the U.S. Supreme Court in *Kelo v. City of New London*, in which the Court held that it was permissible for a city to use eminent domain to take the home of a Connecticut woman for the purpose of economic development.
- D. Respect the decision of the voters to reject Proposition 90 in November 2006, a measure that included eminent domain reform but also included unrelated provisions that would have subjected taxpayers to enormous financial liability from a wide variety of traditional legislative and administrative actions to protect the public welfare.
- E. Provide additional protection for property owners without including provisions, such as those in Proposition 90, which subjected taxpayers to liability for the enactment of traditional legislative and administrative actions to protect the public welfare.
- F. Maintain the distinction in the California Constitution between Section 19, Article I, which establishes the law for eminent domain, and Section 7, Article XI, which establishes the law for legislative and administrative action to protect the public health, safety and welfare.
- G. Provide a comprehensive and exclusive basis in the California Constitution to compensate property owners when property is taken or damaged by state or local governments, without affecting legislative and administrative actions taken to protect the public health, safety and welfare.

SECTION 2: AMENDMENT TO THE CALIFORNIA CONSTITUTION

Section 19 of Article I of the California Constitution is hereby amended to read:

Sec. 19. (a) Private property may be taken or damaged for a public use and only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner. The Legislature may provide for possession by the condemnor following commencement of eminent domain proceedings upon deposit in court and prompt release to the owner of money determined by the court to be the probable amount of just compensation.

(b) *The State and local governments are prohibited from acquiring by eminent domain an owner-occupied residence for the purpose of conveying it to a private person.*

(c) Subdivision (b) of this Section does not apply when State or local government exercises the power of eminent domain for the purpose of protecting public health and safety; preventing serious, repeated criminal activity; responding to an emergency; or remedying environmental contamination that poses a threat to public health and safety.

(d) Subdivision (b) of this Section does not apply when State or local government exercises the power of eminent domain for the purpose of acquiring private property for a Public work or improvement.

(e) For the purpose of this Section:

- 1. "Conveyance" means a transfer of real property whether by sale, lease, gift, franchise, or otherwise.*
- 2. "Local government" means any city, including a charter city, county, city and county, school district, special district, authority, regional entity, redevelopment agency, or any other political subdivision within the State.*
- 3. "Owner-occupied residence" means real property that is improved with a single family residence such as a detached home, condominium, or townhouse and that is the owner or owners' principal place of residence for at least one year prior to the State or local government's initial written offer to purchase the property. Owner-occupied residence also includes a residential dwelling unit attached to or detached from such a single family residence which provides complete independent living facilities for one or more persons.*
- 4. "Person" means any individual or association, or any business entity, including, but not limited to, a partnership, corporation, or limited liability company.*
- 5. "Public work or improvement" means facilities or infrastructure for the delivery of public services such as education, police, fire protection, parks, recreation, emergency medical, public health, libraries, flood protection, streets or highways, public transit, railroad, airports and seaports; utility, common carrier or other similar projects such as energy-related, communication-related, water-related and wastewater-related facilities or infrastructure; projects identified by a State or local government for recovery from natural disasters; and private uses incidental to, or necessary for, the Public work or improvement.*
- 6. "State" means the State of California and any of its agencies or departments.*

SECTION 3. By enacting this measure, the voters do not intend to change the meaning of the terms in subdivision (a) of Section 19, Article I of the California Constitution, including, without limitation, "taken," "damaged," "public use," and "just compensation," and deliberately do not impose any restrictions on the exercise of power pursuant to Section 19, Article I, other than as expressly provided for in this measure.

SECTION 4. The provisions of Section 19, Article I, together with the amendments made by this initiative, constitute the exclusive and comprehensive authority in the California Constitution for the exercise of the power of eminent domain and for the payment of compensation to property owners when private property is taken or damaged by state or local government. Nothing in this initiative shall limit the ability of the Legislature to provide compensation in addition to that which is required by Section 19 of Article I to property owners whose property is taken or damaged by eminent domain.

SECTION 5. The amendments made by this initiative shall not apply to the acquisition of real property if the initial written offer to purchase the property was made on or before the date on which this initiative becomes effective, and a resolution of necessity to acquire the real property by eminent domain was adopted on or before 180 days after that date.

SECTION 6. The words and phrases used in the amendments to Section 19, Article I of the California Constitution made by this initiative which are not defined in subdivision (d), shall be defined and interpreted in a manner that is consistent with the law in effect on January 1, 2007 and as that law may be amended or interpreted thereafter.

SECTION 7. The provisions of this measure shall be liberally construed in furtherance of its intent to provide homeowners with protection against exercises of eminent domain in which an owner-occupied residence is subsequently conveyed to a private person.

SECTION 8. The provisions of this measure are severable. If any provision of this measure or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SECTION 9. In the event that this measure appears on the same statewide election ballot as another initiative measure or measures that seek to affect the rights of property owners by directly or indirectly amending Section 19, Article I of the California Constitution, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and each and every provision of the other measure or measures shall be null and void.

